



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 13-047

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated November 2011.]

1. Statutory Authority

The department has cited ss. 227.11 (2) (a) and 440.26 (2) (c), Stats., as authority for this rule-making. Should s. 440.26 (3m), Stats., which directs the department to promulgate rules relating to the carrying of dangerous weapons by a person licensed as a private detective, investigator, or security person, also be cited as a source of statutory authority?

2. Form, Style and Placement in Administrative Code

a. Why does the introductory clause include the phrase “and affecting small business,” when the rule summary states that the proposed rule revisions do not apply to or have an economic impact on small businesses? The department may wish to further explain the nature of the rule’s effect on small business.

b. It may be clearer to create two new subdivisions, s. SPS 34.02 (2) (a) 4. and 5., rather than creating one new subdivision that is divided into two subdivision paragraphs. Use of this organizational structure would eliminate the repetitious use of the phrase “one of the following” in s. SPS 34.02 (2) (a) 4. and improve the subdivision’s readability.

c. The rule indicates the department will determine whether certain programs are equivalent to other programs. The department should consider providing, by rule, additional details on the process by which equivalency will be determined. Once equivalency is determined, the department may wish to identify the manner in which a list of equivalent programs may be obtained.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. A comma should be inserted before the word “relating” in the introductory clause. [s. 1.02, Manual.]

b. The proposed rule adds to the list of organizations that may provide training to individuals seeking approval to be firearms-proficiency certifiers certain institutions that certify or approve “firearms instructors in a manner which the department determines achieves equivalency to complying with the requirements in subds. 1. to 3.”. However, there are three grammatical problems with this clause that affect the rule’s meaning. First, it is the applicant, not the institution, to whom s. SPS 34.04 (2) (a) 1., 2., or 3. apply. Second, s. SPS 34.04 (2) (a) 1., 2., or 3 are not “requirements”; they are ways in which a person can comply with the requirement to receive training as a police or security firearms instructor. Third, the list of ways in which a person can comply with the requirement to receive this training is disjunctive, not conjunctive as “complying with subds. 1 *to* 3.” (emphasis added) would be. Additionally, “achieves equivalency” should be “is equivalent”.

c. In the rule text, the word “section”, when referring to the sequentially numbered sections of the rule, should be in small caps (SECTION). [s. 1.04, Manual.]